

Agricultural Marketing Service, USDA

§ 918.40

or authority of the committee relating to the establishment of rules and regulations pursuant to the provisions and subject to the limitations set forth in this subpart;

(m) Each season, prior to making any recommendation to the Secretary for a regulation of shipments pursuant to this subpart to determine the marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary as required by § 918.48;

(n) To supervise the regulation of shipments of peaches pursuant to this part;

(o) To establish such other committees or subcommittees to aid the Industry Committee in the performance of its duties under this part as the Industry Committee may deem advisable;

(p) To submit to the Secretary, prior to May 1 of each fiscal period, a budget of its expenses and a proposed rate of assessment for the then current fiscal period;

(q) To investigate and to assemble data with respect to the growing, harvesting, shipping, and marketing conditions relating to peaches.

[20 FR 1635, Mar. 18, 1955. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 42 FR 40885, Aug. 12, 1977]

§ 918.30 Procedure.

(a) The Industry Committee may, upon the selection and qualification of a majority of its members, organize and commence to function. A quorum shall consist of five (5) members or alternate members then serving in the place and stead of any members. For any recommendation of the Industry Committee to be valid, not less than five (5) affirmative votes shall be necessary: *Provided*, That any recommendation on minimum size regulations also shall require at least one (1) concurring vote from each district.

(b) The Industry Committee may provide for the members thereof, including the alternates when acting as members, to vote by mail, telephone, typewriter, telegraph, or radiograph, and any such vote by telephone shall be confirmed promptly in writing: *Provided*, That if any assembled meeting of the committee is held, all votes shall be cast in person.

(c) The committee may adopt such rules, not inconsistent with the provisions of this subpart, relative to the method of conducting its business as it may deem advisable.

(d) The Industry Committee shall give to the Secretary or to the designated representative of the Secretary the same notice of its meetings as is given to the members thereof.

[20 FR 1635, Mar. 18, 1955. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 55 FR 1381, Jan. 16, 1990]

§ 918.31 Funds.

All funds received by the Industry Committee pursuant to any provision of this part shall be used solely for purposes specified in this subpart and shall be accounted for in the following manner: (a) The Secretary may, at any time, require the committee and its members, including alternate members, to account for all receipts and disbursements; and (b) whenever any person ceases to be a member or alternate member of the committee, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member.

EXPENSES AND ASSESSMENTS

§ 918.40 Expenses.

The Industry Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 918.41. For projects conducted pursuant to § 918.72, other funds approved by the Secretary may also be used.

[42 FR 40885, Aug. 12, 1977, as amended at 55 FR 1381, Jan. 16, 1990]

§918.41 Assessments.

Each handler who first ships peaches shall pay upon demand, to the Industry Committee, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period: *Provided*, That no assessment shall be levied against peaches that are exempt from regulation pursuant to §918.71 or against peaches that are exempt from inspection pursuant to §918.64. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers as the first shippers thereof during the same fiscal period.

[42 FR 40885, Aug. 12, 1977]

§918.42 Rate of assessment.

The Secretary shall specify the rate of assessment to be paid by such handlers.

§918.43 Increase in rate of assessment.

The Secretary may, at any time during or after a fiscal period, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the Industry Committee. Any such increase in the rate of assessment shall be applicable to all assessable peaches shipped during the specified fiscal period. In order to provide funds to enable the Industry Committee to perform its functions under this part, handlers may make advance payment of assessments.

§918.44 Accounting.

If at the end of a fiscal period the assessments collected are in excess of expenses incurred, the Industry Committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve up to an amount of \$20,000. Such reserve funds may be used to cover any expenses authorized by this part and to cover necessary expenses of liquidation in the event of termination of this

part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

[42 FR 40885, Aug. 12, 1977]

§918.45 Suit to enforce collection.

The Industry Committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler for the collection of such handler's pro rata share of expenses.

MARKETING POLICY

§918.48 Must be submitted prior to recommendation.

Before making any recommendation pursuant to §§918.60 through 918.63 for a particular marketing season, the Industry Committee shall submit to the Secretary a report setting forth the advisable marketing policy, for such season, for peaches. Such marketing policy report shall set forth the estimated regulation or regulations which may be recommended by the committee during such season, the justification therefor, and the estimates and other factors enumerated in §918.49. In the event the committee deems it advisable to alter such marketing policy, subsequent to submitting a report thereon to the Secretary, the committee shall submit to the Secretary a report setting forth such revised marketing policy.

§918.49 Factors to be considered.

In determining such marketing policy, or such revised marketing policy, the Industry Committee, after due consideration, shall include in the report its determinations and estimates of the following factors and conditions: (a) The estimated total quantity of each